THE HON'BLE MR JUSTICE A.GOPAL REDDY

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W. P. No. 19875/1995

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Dt. 28-2-2006

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M/s. Madhava Roller Flour Mills, Bibinagar,Nalgonda

District, represented by its Partner M.Subramanyam. ..Petitioner

v.

1. The A.P.State Electricity Board, represented by its Secretary,Vidyut Soudha, Somajiguda, Hyderabad and others.

...Respondents

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ORAL ORDER:

The petitioner who is H.T. consumer earlier filed writ petition questioning the increase in the electricity tariff in so far as the HT consumers are concerned, vide B.P.Ms.No.671 (Commercial) dt. 10-6-1987 and B.P.Ms.No.353 (Commercial) dt. 15-4-1989, and obtained stay of operation of said B.P.Ms. on condition that the petitioner paying 50% of the increased tariff. Aggrieved by the said interim direction, the respondent-Board preferred writ appeals, which were dismissed confirming the stay granted by the learned single Judge. All the writ petitions were disposed of by this court on 6-9-1989 in WP No.1428/88 and batch striking down B.O.Ms.No.671 partly and B.P.Ms.No.353 in toto. Aggrieved by the said judgment, the Board as well as consumers preferred writ appeals. Ultimately, Writ appeals preferred by the Board were allowed. Following the same, WA No.969/92 preferred by the Board was allowed on 2-12-1993 against the petitioner. On allowing the appeal, the petitioner was called upon to pay a sum of Rs. 70,078-80 towards the arrears of difference of tariff on account of the interim direction granted by this court during the pendency of the writ petition and writ appeal through letter No.SE/OP/NLG/SAO/HT/D.No.911/95 dt. 18-5-1995 of the second respondent, and the petitioner paid the amount due to the Board. While so, the petitioner was called upon to pay Rs.73,078-08 towards late payment charges on the tariff difference of arrears. Questioning the same, the present writ petition has been filed.

In view of the law declared by the Apex Court in KANORIA CHEMICALS AND INDUSTRIES LIMTIED V. UPSEB (1997) 5 SCC 772) mere obtaining interim stay by the petitioner-consumer would not be relieved o f its obligation to pay the late payment surcharge for the period the stay order had remained operative. In view of the same, on disposal of the writ petition and writ appeal, as the case may be, the petitioner-consumer is liable to pay late payment surcharge.

The writ petition is accordingly dismissed. No costs.

28-2-2006

KMR